

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

-VS-

DECISION and ORDER

13-CR-6025

FRANKLIN BROCK, JR.,

Defendant.

This case was referred by text order of the undersigned, entered February 12, 2013, ECF No. 34, to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). On September 20, 2013, Defendant filed an omnibus motion, ECF No. 183, seeking, *inter alia*, a determination as to the applicability of the Juvenile Delinquency Act to Count One of the Third Superseding Indictment, the narcotics conspiracy charge suppression of tangible evidence. With respect to Defendant's motion to suppress tangible evidence, Magistrate Judge Payson conducted an evidentiary hearing concerning the circumstance of a traffic stop of Defendant and the subsequent search of his person. ECF No's. 278, 293 and 305. On December 11, 2015, Magistrate Judge Payson filed a Report and Recommendation ("R&R"), ECF No. 458, recommending that the Juvenile Delinquency Act does not apply to Count One of the Third Superseding Indictment and recommending that the Court deny Defendant's motion to suppress tangible evidence. The time has passed for Defendant to file any objections to the R&R, and none have been filed.¹

¹ The Court will address the Government's Objections, ECF No. 468, in a separate decision and order.

Accordingly, for the reasons set forth in Magistrate Judge Payson's R&R, the Court finds that the Juvenile Delinquency Act does not apply to Count One of the Third Superseding indictment, and the Court denies Defendant's motion to suppress tangible evidence

IT IS SO ORDERED.

Dated: Rochester, New York
March 23, 2016

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge